



**National Crime Prevention and Privacy Compact**  
**COMPACT COUNCIL MEETING**  
**LOUISVILLE, KENTUCKY**  
**MAY 23-24, 2007**

**MINUTES**

Ms. Donna Uzzell, Chairman, National Crime Prevention and Privacy Compact Council (Council), called the Council meeting to order at 9:00 a.m. on May 23, 2007, in the Regency Ballroom of the Hyatt Regency Louisville Hotel in Louisville, Kentucky.

Mr. Todd C. Commodore, FBI's Compact Officer, conducted roll call of the Council members. The following Council members, or their proxies, were in attendance.

**State Compact Officers:**

- Ms. Terry Gibbons, Georgia Bureau of Investigation  
(Proxy for Mr. Paul Heppner)
- Mr. Jeffrey R. Kellett, New Hampshire State Police
- Mr. Robert P. Johnson, Minnesota Department of Public Safety  
(Proxy for Mrs. Julie LeTourneau Lackner)
- Captain Timothy P. McGrail, Missouri State Highway Patrol
- Lt. John H. O'Brien, New Jersey Division of State Police
- Ms. Dawn Peck, Idaho State Police
- Mr. David Sim, Kansas Bureau of Investigation
- Ms. Donna Uzzell, Florida Department of Law Enforcement
- Ms. Liane Moriyama, Hawaii Criminal Justice Data Center

**State/Local Noncriminal Justice Agency Representative:**

- Mr. Robert Finlayson, III, Georgia Department of Human Resources

**State/Local Criminal Justice Agency Representative:**

- Ms. Robyn Lyles, Maryland Department of Public Safety and Correctional Services  
(Proxy for Ms. Carole Shelton)

**Federal Noncriminal Justice Agency Representative:**

- Mr. William Marosy, Office of Personnel Management  
(Proxy for Ms. Kathy Dillaman)

**Federal Criminal Justice Agency Representative:**

- Mr. Jonathan Frenkel, Department of Homeland Security - **(Not in Attendance)**

**Advisory Policy Board Representative:**

- Mr. William Casey, Boston Police Department - **(Not in Attendance)**

**Federal Bureau of Investigation:**

- Mr. Thomas E. Bush, III, FBI CJIS Division

Chairman Donna M. Uzzell provided opening remarks. Chairman Uzzell advised that she and Vice Chairman David Sim continue to work towards expanding state ratification of the Compact. A seminar for nonparty states and territories was held the day before the Council meeting with 45 attendees representing 23 states and territories. Chairman Uzzell advised Mrs. Diane Shaffer will present a report on the seminar with Topic #2.

Chairman Uzzell reported that a letter was sent to members of Congress, at the direction of the Council, to advise of the need to have central grant funding to the states to improve the quality, timeliness and immediate accessibility of criminal history records. Council members and nonparty state members were provided copies of the letter and encouraged to reach out to their respective congressional representatives. Chairman Uzzell also mentioned that Mr. Gerard Ramker, Bureau of Justice Statistics (BJS), was on the agenda to report on funding programs and resources available through BJS.

Council members were provided with National Fingerprint File (NFF) statistics. Chairman Uzzell announced Georgia will become the tenth NFF participant in August 2007. With Georgia's participation, approximately 25 percent of the records in the Interstate Identification Index (III) will be maintained by NFF states. The FBI has conducted 18 NFF onsite visits to date, most recently West Virginia in April 2007. Mrs. Paula Barron will provide an update on NFF implementation with Topic #14.

At the Council's request, in January 2007 a Noncriminal Justice Audit Training and National Child Protection Act/Volunteers for Children Act Implementation Process Conference was held in Orlando, Florida. Sixty-five individuals attended representing 30 states and territories. Mrs. Joyce Wilkerson will provide a report on the conference with Topic #9.

Next, welcoming remarks were provided by Major Brad Bates, Chief Information Officer for the Kentucky State Police. Other meeting attendees introduced themselves and the agency they represented. (**Attachment 1**) Chairman Uzzell introduced new State Compact Officers Mr. Lonnie Rudasill of Ohio and Mr. Brad Truitt of Tennessee. Afterward, Mr. Thomas E. Bush, III, Assistant Director, FBI CJIS Division, presented a plaque to Mr. James Wilson, Wyoming Division of Criminal Investigation, who will be retiring in early 2007, for his years of service to the Council and the Advisory Policy Board (APB). Additionally, Chairman Uzzell acknowledged Mr. Wilson's service to the Council and years of service to the law enforcement community.

Chairman Uzzell reminded Compact States that at the Council's request, State Compact Officer elections for Council membership will now be held in conjunction with Council meetings. There will be an election held during this meeting and Mr. Todd Commodore, FBI Compact Officer, will be providing the results at the end of the meeting.

Pursuant to Section 8.7 of the Bylaws, Chairman Uzzell received a request from private individuals to address the Council. Mr. Tim Mann, Ph.D. candidate with the Law, Policy, and Society program at Northeastern University in Boston, requested an opportunity to address the Council. Mr. Mann is conducting a study that examines the law, policy, and administrative implications of requiring criminal background checks in the college admissions process. In the e-mail that was sent to Council members, there was a questionnaire (**Attachment 2**) seeking input regarding the impact if a federal law was enacted requiring these types of checks.

Chairman Uzzell asked attendees if there were any comments to the November 2006 minutes. If not, she would entertain a motion for approval.

**Compact Council Action: Lt. John O'Brien moved to approve the November 2006 minutes with the addition of Ms. Liane Moriyama's name to the attendee roster. Seconded by Mr. Jeffrey Kellett. The motion carried.**

#### **Topic #1      FBI's Criminal Justice Information Services Division Update**

Mr. Bush provided an update on the CJIS Division. (**Attachment 3**) Mr. Bush provided updates on the Integrated Automated Fingerprint Identification System (IAFIS), National Crime Information Center, National Instant Criminal Background Check System, Law Enforcement Online (LEO), Uniform Crime Reporting, Next Generation Identification, Law Enforcement National Data Exchange (N-DEx) and spoke on interoperability efforts with Department of Homeland Security, Department of State, Department of Defense, and the proposed changes to the current CJIS Division user fee schedule.

**Compact Council Action: This topic was accepted as information only.**

#### **Topic #2      Summary of the Seminar for Nonparty States On the Ratification for the National Crime Prevention and Privacy Compact**

Mrs. Shaffer, FBI staff, presented an overview of the seminar for nonparty states. As one of the Council's strategies is to increase Compact ratification of the Nonparty states, the Council conducted a seminar for all Nonparty states in conjunction with its May meeting. The seminar provided representatives from the Nonparty states with a brief orientation on the role and responsibilities of the State Compact Officers and the Council, background on the Compact itself and the impact of ratifying the Compact. State Compact Officers and the FBI provided presentations and participated in panel discussions. The main focus was to enhance the nonparty states' knowledge of the Compact, which will result in increased Compact ratification.

**Compact Council Action: This topic was accepted as information only.**

**Topic #3**      **The Policy & Planning Committee's Report on the Survey Regarding State Ratification of the National Crime Prevention and Privacy Compact (Compact)**

Mrs. Joyce Wilkerson, FBI staff, presented the Policy & Planning Committee's report on the survey regarding state ratification of the Compact. At the November 2006 Council meeting, The Council approved a recommendation to survey Party and Nonparty States as a part of a strategy for expanding state ratification of the Compact. The purpose of the surveys was to identify successful strategies and impediments for ratifying the Compact.

In December 2006, the FBI Council staff sent the Party State Survey to 27 party states. Of the 27 party states, 19 responded to the survey. Based on the results, the FBI council staff prepared a survey for dissemination to the 27 nonparty states, which was disseminated in April 2007. Mrs. Wilkerson discussed the results of the surveys with the Council.

The Council recommended the survey results be forwarded to the regional moderators from the nonparty state break-out sessions for further analysis and follow-up. The regional chairmen were requested to report back in time for the next Policy and Planning Committee meeting in September 2007. Additionally, the Council requested the detailed survey results for review by Council members.

**Compact Council Action:** This topic was accepted as information only.

**Topic #4**      **Status of NCHIP Grants**

Mr. Ramker, Chief of Criminal Statistics Improvement Programs, BJS, provided the Council with information on BJS grant opportunities. **(Attachment 4)** Mr. Ramker presented attendees with information on funding programs and resources that are available to improve criminal history records through the BJS, including the National Criminal History Improvement Program (NCHIP). In fiscal year 2006, Mr. Ramker reported BJS received 52 applications for funding, which totaled \$28 million. In 2007, BJS received 40 applications for about \$21 million. Mr. Ramker reported that funding is dramatically declining.

**Compact Council Action:** This topic was accepted as information only.

**Topic #5      The Standards Committee and Policy & Planning Committee Reports on the FBI Legal Opinion on the FBI's Legal Requirement to Include Criminal History Record Information (CHRI) Maintained by National Fingerprint File (NFF) States for Departmental Order (DO) 556-73**

Mr. Commodore provided the Council with background information on the Departmental Order 556-73 (DO) process. The FBI Access Integrity Unit (AIU) recommended the FBI CJIS Division develop a new III purpose code for use in III record requests under the authority of the DO.

At the November 2006 Council meeting, FBI CJIS Division staff advised the Council that Purpose Code R would be established for DO requests. As a result of the Council's discussion, the Council requested the FBI reexamine its DO policy and procedures to determine if there is any legal obligation to include NFF maintained criminal history record information (CHRI) with FBI maintained CHRI for DO requests. Further, the Council requested the FBI re-evaluate current procedures under which the FBI will, at the individual's request, mail the results of the fingerprint search to a third party.

**Compact Council Action: Ms. Dawn Peck moved to keep the intent as it was originally made, for personal use; remove the record identifiers from the record; and examine the rule and reiterate to the states they cannot enact statutes that bypass Public Law 92-544 and then refer back to the Standards Committee. Also, draft suggested language changes that another notarized signature be added to the form as a personal representative and the individual's information be forwarded to that specified representative. Seconded by Mr. Jeffrey Kellett. The motion carried.**

**Topic #6      The Standards Committee Report on the Interpretation of Section 2 of the Security and Management Control Outsourcing Standard**

Mr. Jim Gray, FBI staff, provided the Standards Committee Report on the Interpretation of Section 2 of the Security and Management Control Outsourcing Standard. During the November 6, 2006, Sanctions Committee meeting, the committee discussed the recently conducted outsourcing audits for noncriminal justice administrative functions. The committee recommended a review of Section 2.01(b) of the Security and Management Control Outsourcing Standard and clarification of the wording of the standard and requirements of the Compact Officer/Chief Administrator. Mr. Gray discussed with the Council the motions from the Standards Committee meeting.

**Compact Council Action: Ms. Liane Moriyama moved to approve the language changes in the Security and Management Control Outsourcing Standard sections 2.01(b), 2.05, and footnote 2. Seconded by Mr. David Sim. The motion carried.**  
**Compact Council Action: Mr. Bill Marosy moved that the Standards Committee**

**review the entire Security and Management Control Outsourcing Standard, in particular, to determine if the Office of Personnel Management (OPM) is in compliance with the Standard. Seconded by Mr. David Sim. The motion carried.**

**Topic #7      The Standards Committee Report on FBI Policy: Individuals Incapable of Providing Fingerprints**

Mrs. Shaffer, FBI staff, provided the Standards Committee Report on the request to modify policy where applicants are physically incapable of providing fingerprints. Mrs. Shaffer provided an update on the November 7, 2006, Council motion to modify the policy to remove the fingerprint requirement for applicants who are permanently physically unable to provide fingerprints, specifically double amputees. The current FBI policy permits noncriminal justice agencies to obtain name checks for individuals whose fingerprints were rejected twice for a technical related issue (image quality). Currently, agencies complete a CJIS Name Search Request Form when requesting a name check for noncriminal justice purposes in those instances where the fingerprints were twice rejected.

The FBI will be implementing a policy change to reflect the new procedures and requirements. Double amputee submissions will need to comply with the necessary steps in order to bypass the two rejects currently necessary for a name check.

**Compact Council Action: This topic was accepted as information only.**

**Topic #8      The Standards Committee Report on the Integrated Automated Fingerprint Identification (IAFIS) Ten-Print Electronic Submission Producing Hard Copy Response Service**

Ms. Cynthia Estep, FBI staff, presented the Standards Committee Report on the Integrated Automated Fingerprint Identification (IAFIS) Ten-Print Electronic Submission Producing Hard Copy Response Service. **(Attachment 5)** The topic focused on electronic submissions which produce hard copy responses and whether or not this should become a permanent IAFIS service. A new IAFIS Type of Transaction (TOT) for the civil user fee submissions was proposed with a revised response time.

Ms. Estep reported that most states have mechanisms in place to route electronic responses to law enforcement agencies within their states, but many lack the necessary infrastructure to route the electronic responses to civil licensing agencies. In June 2002, the CJIS APB approved the use of the Card Scanning Service TOT, the Non-Federal Applicant CSS Submission (NFFC), to submit electronically and receive hard copy responses. Based on current user needs and usage, there was a request to approve the electronic in/manual out as a permanent submission and response generation option. This permanent method will allow agencies to continue using this option and provide other agencies options for civil processing. All incoming

transactions have an established processing priority time. The current NFFC TOT transactions have an established processing priority time. It is recommended a processing priority time for this electronic submission producing a hard copy response method be 5 days to remain consistent with the recently CJIS APB approved non-urgent priority time frame.

Ms. Estep provided three options for the Council to consider. The Standards Committee, as well as the Identifications Services Subcommittee, endorsed Option Two:

Continue to provide this electronic submission producing hard copy response method as a temporary option, but new IAFIS TOTs with revised processing times will be developed. It is recommended that a reasonable processing priority time be five days to remain consistent with the recently CJIS APB approved 'non-urgent priority' time frame. Agencies should continue to pursue electronic fingerprint processing implementation within a two-year period. Revise the EFTS to include the specifications for this method.

**Compact Council Action: Ms. Liane Moriyama moved to endorse Option Two, which will continue the electronic in/manual out as an interim option with revised processing times for the new IAFIS TOT, to be reevaluated in two years. Seconded by Mr. Bill Marosy. The motion carried.**

**Topic #9      Summary of the Noncriminal Justice Audit Training and National Child Protection Act/Volunteers for Children Act Implementation Process Conference**

Mrs. Joyce Wilkerson, FBI staff, provided a summary of the Noncriminal Justice Audit Training and National Child Protection Act/Volunteers for Children Act (NCPA/VCA) Implementation Process Conference. (**Attachment 6**) Mrs. Wilkerson reported that the Council hosted the conference January 30-31, 2007, in Orlando, Florida, with sixty-five individuals in attendance. The first day of the conference was devoted to implementation of the NCPA/VCA. The second day of the conference was devoted to the noncriminal justice agency (NCJA) audit training. Chairman Julie LeTourneau Lackner provided comments on Compact Council Sanctions Committee and conducting this training. The FBI training staff and the FBI CJIS Audit Unit (CAU) provided overviews on training for the states as they deploy NCJA audit programs, including an overview of the audit methodology used by CAU for state and federal NCJA audits.

**Compact Council Action: This topic was accepted as information only.**

**Topic #10      The Standards Committee Report on the Establishment of the Noncriminal Justice Audit Programs**

Mrs. Paula Barron, FBI staff, presented the Standards Committee Report on the Establishment of the Noncriminal Justice Audit Programs. Ms. Barron stated that at the January 2007 NCJA Audit Training Conference, some states inquired which FBI III policy included the requirement for states to audit noncriminal justice background record checks. Some states expressed a need for a written audit requirement in order to dedicate resources to NCJA audits.

Mrs. Barron reported that subsequent to the January 2007 meeting, FBI CJIS Division staff researched NCJA audit requirements. This research included the *CJIS Security Policy*, *CJIS User Agreement*, the Council's Sanctions Rule, the Compact, Council meeting transcripts, and all other Council rules and notices. Mrs. Barron provided a summary of the research results. The Standards Committee agreed that a written requirement should be established and recommended an addition to the *CJIS Security Policy* which addressed state audits of agencies receiving CHRI as a result of fingerprint processing.

**Compact Council Action: Ms. Liane Moriyama made a motion to redraft the topic paper with specific language relating to state audits, possibly in section 9.0 or wherever appropriate, and that the topic come back to the Standards Committee to make a recommendation to send it on to the Advisory Policy Board. Seconded by Ms. Dawn Peck. The motion carried.**

**Topic #11      New National Child Protection Act/Volunteers For Children Act (NCPA/VCA) Implementation Guidelines**

Mr. Allen Nash, FBI staff, presented the NCPA/VCA implementation guidelines. On November 2, 2006, the FBI CJIS Division sent a letter to all CJIS System Officers (CSO) and State Identification Bureau (SIB) representatives advising that the dissemination of an individual's CHRI to a nongovernmental entity with the individual's written consent is not legally objectionable under federal law. The new policy was also discussed at the fall 2006 Council meeting in Oklahoma City, Oklahoma.

After that meeting, the FBI staff received several inquiries requesting clarification of the policy. Mr. Nash discussed the questions and the responses received from the OGC. Mr. Nash also reported an informal survey of CSO and SIB representatives indicated several states have established procedures, or plan to establish procedures, pursuant to the NCPA/VCA that will include dissemination of the criminal history record to the qualified entity with the individual's written consent.

**Compact Council Action: This topic was accepted as information only.**



**Topic #12      Summary of the SEARCH/Council's Workshop on Expanding Criminal History Record Information**

Mr. Eric Johnson, National Consortium for Justice Information and Statistics (SEARCH), provided the summary of the SEARCH/Council's Workshop on Expanding Criminal History Record Information. Mr. Johnson reported on February 12, 2007, the SEARCH, in cooperation with the Bureau of Justice Programs, Department of Justice (DOJ), and the Council, co-sponsored a one-day workshop to discuss the Attorney General (AG) Report on Criminal History Background Checks. The workshop consisted of four panels made up of subject matter experts who discussed some of the most critical issues raised by the AG report. Members who attended the workshop had differing perspectives and some opposed elements in the AG report. Time constraints inhibited consideration of all the recommendations in the AG report. Observations and closing comments were provided by Frank Campbell, Deputy Assistant AG of the DOJ and primary author of the AG report. Mr. Johnson also briefed the Council on Mr. Ron Hawley's testimony before the House Judiciary Committee on criminal history background checks.

**Compact Council Action: This topic was accepted as information only.**

**Topic #13      The Policy & Planning Committee Report of the National Crime Prevention and Privacy Compact Council's (Compact Council) Strategic Plan**

Mr. Sim, Vice Chairman of the Council, presented this topic. The Council's Policy & Planning Committee was asked to review the Council's Strategic Plan, determine if new objectives were necessary, and revise existing objectives which are applicable to the Council's mission. At the March 30, 2006, meeting, the committee completed a review of the Strategic Plan and recommended new goals and objectives. At the August 2006 meeting, the committee recommended additional objectives and strategies for achieving those objectives. Additionally, the FBI staff was asked to identify performance measures for monitoring achievement of the goals and objectives. The FBI staff revised the draft strategic plan to include the recommended objectives and strategies, as well as performance indicators to measure outcomes, outputs, and impacts for each goal and objective. Mr. Sim presented the revised plan to the Council for review.

**Compact Council Action: Ms. Dawn Peck moved to accept the goals and objectives as written and to send back to the Policy and Planning Committee to work out strategies and structures. Seconded by Ms. Liane Moriyama. The motion carried.**

**Topic #14      Update on the National Fingerprint File (NFF) Implementation Status Report**

Mrs. Barron, FBI staff, presented the update on the National Fingerprint File (NFF) Implementation Status Report. This topic resulted from discussions at both the Standards and Policy and Planning Committee's spring 2006 meetings. As part of discussions on developing a timeline for Compact states to join the III and NFF Programs, the FBI staff was asked to draft a checklist for use by states preparing for NFF. At the May 2006 Council meeting, the Council approved a motion that the FBI staff draft an NFF Matrix and include a list of major milestones a state must meet as it prepares for NFF participation.

In August 2006, the Standards Committee approved the draft matrix which included milestones and action items for each milestone. Each milestone was support by an NFF Qualification Requirement. The Standards Committee requested the Council Chairman provide the matrix to the 18 non-NFF Compact states. An explanatory letter and matrix was e-mailed on October 30, 2006. Additionally, the Council recommended a report be provided at each Standards Committee meeting to update the committee on each state's progress toward NFF participation.

Mrs. Barron stated the matrix was e-mailed to non-NFF Compact states on January 9, 2007, requesting an NFF status update. This information was used to provide a status on each of the 18 non-NFF progress towards NFF/III participation for the Council. Mrs. Barron advised states which have not had an NFF on-site visit had difficulty completing the matrix. The responses varied from state to state.

**Compact Council Action: This topic was accepted as information only.**

**Topic #15      Advisory Policy Board Update**

Mr. Commodore presented the APB update. He briefed the Council on current APB initiatives including: ethnicity field, QWI transaction, required data field for IAFIS, disabled applicants, identity theft, non-urgent criminal submissions, dispositions, standardized reasons fingerprinted, security addendum, firearm training classes, and CJIS APB Bylaws. (Attachment 7)

**Compact Council Action: This topic was accepted as information only.**

**Topic #16      Next Generation Identification Program Update**

Mr. Nicky Megna, FBI staff, presented the Next Generation Identification (NGI) Program Update. (Attachment 8) Mr. Megna provided an update on the major initiatives associated with NGI. The Council was asked to review the Standards Committee suggestion and

provide recommendations on the Advanced Fingerprint Identification Technology (AFIT) Repository for Individuals of Special Concern (RISC) and the Enhanced Integrated Automated Fingerprint Identification System (IAFIS) Repository (EIR) Rap Back Services.

### **EIR Rap Back Services**

**Compact Council Action: Ms. Dawn Peck moved to approve Recommendation One as follows without additional input. Seconded by Mr. John O'Brien. The motion carried.**

Recommendation One - The Rap Back service utilizes the same dissemination protocols currently in place for criminal/civil fingerprint submissions.

**Compact Council Action: Ms. Liane Moriyama moved to approve Recommendation Two as follows and to allow the pre-notification to be optional and a batch updating capability be included for large volume submitters. Seconded by Mr. John O'Brien. The motion carried.**

Recommendation Two - Prior to sending a Rap Back notification to the authorized agency(ies), a Rap Back pre-notification would be sent to the submitting agency indicating that IAFIS has received subsequent activity on an enrolled individual. The submitting agency would need to confirm, through a response, that the individual is still of interest prior to IAFIS releasing the Rap Back Notification.

**Compact Council Action: Ms. Dawn Peck moved to refer the Standards Committee motion on Recommendation 2c to the IAFIS Interface Evaluation Task Force (IIETF). Ms. Peck also moved that the IIETF membership be expanded to include Mr. Robert Finlayson and a representative from OPM. Seconded by Mr. Robert Finlayson. The motion carried.**

Recommendation 2c - Consider forming a users group to discuss noncriminal justice rap back methodologies.

**Compact Council Action: Ms. Dawn Peck moved to refer issues 2d, 2e, and 2f to the IIETF as follows. Seconded by Mr. John O'Brien. The motion carried.**

Recommendation 2d - Consider how the FBI will handle no response to a pre-notification - resend or consider responses "No".

Recommendation 2e - Suggested that after the initial fingerprint check response comes back, the agency would then advise whether or not they would enroll the subject into the Rap Back Service.

Recommendation 2f - Suggested that a certain time period transpire before pre-notifications would be sent to users with the assumption that a high percentage would respond "yes" for a short period of time (i.e., 6-12 months) and the person would likely be still working in that same job.

**Compact Council Action: Ms. Liane Moriyama moved to approve Recommendation Three as follows and that the flag be optional. Seconded by Ms. Dawn Peck. Motion carried.**

Recommendation Three - That the rap back events that triggered the response be highlighted within the response.

**Compact Council Action: Mr. John O'Brien moved to approve Recommendation Four as follows and that the flag be optional. Seconded by Mr. Bill Marosy. Motion carried.**

Recommendation Four - Disposition data submitted to IAFIS on an enrolled Rap Back identity would trigger a Rap Back notification.

#### **AFIT RISC Services**

**Compact Council Action: Ms. Liane Moriyama made a motion to accept Recommendations One, Two, and Three as information only with the understanding that NGI continue to consider the NFF architecture. Seconded by Ms. Dawn Peck. Motion carried.**

Recommendation One - The RISC provides a caveat to be included with all Red/Yellow/Green responses. Note: Based on the IIETF's recommendation, the following sample caveat was developed by CJIS Division Staff.  
"THIS RESPONSE IS BASED ON A SEARCH OF ONLY THE REPOSITORY FOR INDIVIDUALS OF SPECIAL CONCERN AND DOES NOT PRECLUDE A RECORD FROM EXISTING IN OTHER BIOMETRIC OR NAME BASED REPOSITORIES."

Recommendation Two - The RISC provides a caveat to be included with a Yellow response. Note: Based on the IIETF's recommendation the following sample caveat was developed by CJIS Division staff.  
"YOUR SEARCH OF THE REPOSITORY FOR INDIVIDUALS OF SPECIAL CONCERN COULD NOT PROVIDE A DEFINITIVE GREEN OR RED RESPONSE. PHOTOS OF POTENTIAL CANDIDATES HAVE BEEN INCLUDED FOR FURTHER APPROPRIATE ACTION."

Recommendation Three - The RISC provides file indicators with a Red or Yellow response to notify the user of which file (e.g., wanted person, known or suspected terrorist) the Red or Yellow response was derived.

#### **Topic #17     Sanctions Committee Report**

Mr. John O'Brien, Vice Chairman of the Sanctions Committee, presented the Sanctions Committee report in Mrs. Lackner's absence. Mr. O'Brien reported that the Sanctions Committee reviewed six audits. The Council sent out appropriate letters to each agency and all agency responses were appropriate. The committee also received a summary of the recently conducted National Fingerprint File audits. There were two audits that were conducted, one for the state of Florida, the second for the state of Oregon. Both resulted in letters of recommendation to both of those states. The committee also received a summary of recently conducted IAFIS audits.

The committee discussed how to determine the appropriate number of audit cycles. The committee recommended an agency return to a zero cycle only if the state's operating procedures change, for example the state becomes a III or NFF program participant. An agency would not be afforded a zero cycle for Compact ratification. The FBI staff also provided the committee with an update on the outsourcing audit methodology.

**Compact Council Action: Mr. John O'Brien moved to accept the Sanctions Committee Report. Seconded by Mr. Robert Finlayson. The motion carried.**

#### **Topic #18     Legislative Update**

Mr. Moye, OGC, provided the legislative update and addressed significant changes which occurred since the last meeting. The Federal Railroad Safety Accountability and Improvement Act, Section 403, would authorize the Federal Railroad Administration (FRA) administrator to access criminal justice information for civil and administrative purposes to protect the safety and security of railroad operations in compliance with the Compact. It would authorize employees of the FRA to access and receive criminal history record information contained in DOJ or state law enforcement databases, including the NCIC and its incorporated criminal history databases.

Mr. Moye reported on the Indian Child Protection & Family Violence Prevention Act Amendments of 2007 (Senate 398). This bill amends 25 United States Code 3207 to authorize background checks of Native American child care volunteers and adoptive and foster parents. Mr. Moye also reported on House Resolution 1759, Managing Arson Through Criminal History (MATCH) Act of 2007, which would require a criminal arsonist to register in the jurisdiction where he was convicted or is a resident, an employee, or student. The AG would also be required to maintain a national arsonist internet site and a National Arsonist Registry.

In conclusion, Mr. Moyer mentioned a proposed bill from New Jersey for access of visitors to military installations. Currently, these checks are authorized for visitors to military installations as an administration of a criminal history function using Purpose Code C.

**Compact Council Action: This topic was accepted as information only.**

**Topic #19     Adam Walsh Child Protection and Safety Act of 2006**

Mr. Commodore stated that the Adam Walsh Child Protection Safety Act of 2006 (the Act), was enacted July 27, 2006, as Public Law 109-248. Mr. Commodore advised Sections 151 and 153 of the Act require the AG to ensure access to FBI criminal history record information by (1) governmental social service agencies with child protection responsibilities, (2) child welfare agencies, and (3) public and private elementary and secondary schools and state and local educational agencies.

Section 151 of the Act requires the AG to ensure access to FBI criminal history record information, which includes the NCIC and III by NCMEC and governmental social services agencies with child protection responsibilities. Section 151 of the Act further provides that access by governmental social service agencies with child protection responsibilities is to be used only in investigating or responding to reports of child abuse, neglect, or exploitation. To date, Mr. Commodore reported that two states, Florida and Illinois, in addition to NCMEC, have requested access under Section 151.

Section 153 of the Act is titled "Schools Safely Acquiring Faculty Excellence Act of 2006" Part (b) of this section provides that the AG shall, upon request from a state's chief executive officer, conduct fingerprint-based checks of national crime information databases. To date, Pennsylvania and Illinois have requested access under Section 153.

Mr. Commodore advised that states do not have to provide direct access to social service agencies direct access in order to take advantage of this provision. Social service agencies may partner with law enforcement agencies so long as the law enforcement agency uses the appropriate originating agency identifier. In conclusion, Mr. Commodore advised the national sex offender guidelines are available on the Smart website and most members should receive notification from Lori Roger, the Smart Director.

**Compact Council Action: This topic was accepted as information only.**

**Topic #20      Transportation Security Administration Update**

Mr. John Schwartz, Transportation Security Administration (TSA), provided an update on TSA's Transportation Worker Identification Credential (TWIC). (**Attachment 9**) The FBI CJIS Division approved TSA's submission of flat fingerprints for the TWIC program. Mr. George Petersen, TSA, provided an update on TSA's credentialing program for individuals applying for or renewing a hazardous material endorsement on a commercial driver's license. This program began in January 2006 and TSA was one of the first federal agencies to use the Council's Outsourcing Rule to accomplish the security threat assessments, which includes a fingerprint-based criminal history record check. The FBI CJIS Division coordinated with TSA to establish a memorandum of understanding and interagency agreements for each of these programs. Additionally, the hazmat program required some unique programming to enable an IAFIS response be generated to both the state of submission and the TSA. (**Attachment 10**)

**Compact Council Action: Ms. Liane Moriyama moved to create a short-term working group to work with TSA on background check issues, in particular taking into account state records. Seconded By Ms. Robyn Lyles. The motion carried.**

**Topic #21      Access to Department of Homeland Security (DHS) Information by Federal, State, and Local Criminal Justice, Intelligence, and Noncriminal Justice Agencies**

**AND**

**Topic #22      Department of State/FBI Ten-Print Pilot Update**

Ms. Cindy Estep, FBI staff, provided a status on progress by the DOJ/FBI and Department of Homeland Security (DHS)/U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Integrated Project Team (IPT) toward implementing biometric-based interoperability between IAFIS and IDENT, as well as the next steps toward a long-term solution and the lessons learned with the interim data sharing model. (**Attachment 11**) The FBI and US-VISIT remain focused on achieving full interoperability and are developing an implementation plan and schedule. Through continued efforts of the IPT, IAFIS, and IDENT, stakeholders will gain full access to the criminal history and immigration history contained in these databases. Ms. Estep presented a status report on the progress of the Department of State/FBI Ten-Print Pilot. She discussed outstanding issues, statistical information, success stories, and benefits of the pilot.

**Compact Council Action: This topic was accepted as information only.**

**Additional Items:**

As another item of business, Mr. Tim Mann, Ph.D. candidate at Northeastern University in the law, policy, and society program, addressed the Council on May 23, 2007. Mr. Mann is conducting a study to examine the law and policy implications of requiring a national background

check in the college admission process. Mr. Mann was seeking participation in a web-based survey of college admissions, campus law enforcement, and state repository personnel regarding the impact to each if national background checks were incorporated into the college admissions process. Mr. Mann urged those in attendance to participate in the study. The Council asked Mr. Mann if he would share the research at the conclusion of the study.

Additionally, Mr. Weldon Kennedy, Vice Chairman of Guardsmark and former Deputy Director of the FBI, addressed the Council on May 24, 2007. He is very active in attempting to authorize criminal history record checks for private security guard applicants. Mr. Kennedy stated this is a matter of national security because private security guards provide security for about 75-80 percent of the critical infrastructure of the United States. Chairman Uzzell offered assistance in raising awareness of this issue and assisting with drafting Congressional legislation.

Mr. Commodore announced the State Compact Officer election results. Mr. Paul Heppner, Mr. Jeff Kellett, Mr. Tim McGrail, Ms. Dawn Peck, and Ms. Donna Uzzell were elected to another two-year term as State Compact Officer representatives to the Council. Ms. Carole Shelton, who received the next highest number of votes, will remain as first alternate.

In conclusion, Mr. Commodore announced upcoming meeting dates. The next Council meeting is scheduled for November 7-8, 2007, in San Diego, California. The Standards and Policy and Planning Committees will meet September 19-20, 2007, in Buffalo, New York.

The meeting adjourned at 1 p.m.